

Serial No. 10/522,973  
April 30, 2007

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PU020362  
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**Remarks**

Claims 1-3, 5-8 and 11 remain in this application and stand rejected following the Official action of February 7, 2007. Applicants have carefully reviewed the rejections and respond as follows:

Claims 2, 3, 5, 7 and 8 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant acknowledges the confusion created by the language "at least one command" resulting from the previously entered amendment to independent claims 1 and 6.

Applicant has amended claims 1 and 6 to correct this confusion.  
Reconsideration and withdrawal of the rejection is respectfully requested.

**35 U.S.C. §102(e) Rejection of Claims 6-10**

Claim 6-8 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2003/0126315, published July 3, 2003, from an application in the name of Choon-Seng Tan et al., filed December 28, 2001.

Before addressing this rejection specifically, applicant would like to draw the Examiner's attention to the background portion of applicant's application as originally filed at pages 1-2. In particular, page 1, line 26 – page 2, line 7 where this description coincidentally seems to clearly describe the system of Tan et al.

In again asserting this same rejection to Independent claim 6, it is respectfully submitted that the Examiner has failed to meet their burden in showing how Tan et al. "anticipates" applicant's claimed principles.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.: *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed Cir. 1987), MPEP 2131.

By way of example, in rejecting independent claim 6, the Examiner identifies applicant's claim language "...queuing requests from an original port that failed to an alternative port; canceling all outstanding requests on the original port; and issuing at least one command view the alternate port" and simply quotes paragraphs 0044 and 0046 of Tan et al. for supposedly showing these features of applicant's claimed principles.

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It is respectfully submitted that it is the Examiner's burden to show Tan et al explicitly or inherently discloses: "queuing of requests designated for an original port to an alternative port" and/or the "canceling of all outstanding requests on the original port." Applicant's representative has read the cited passages of Tan et al. and is at a complete loss for where or how Tan et al. discloses the queuing and/or canceling features of applicant's claim. The "canceling" referred to by the Examiner (i.e., through the inactivation of a controller) seems to overlook the idea that the canceling of the present principles is performed after we have queued these requests, and in Tan et al, such "canceling" clearly results in the loss of that information.

Notwithstanding the foregoing, applicant has amended claim 6 to clarify the present principles. In particular, the queuing of requests for the original port is for *retry* on the alternative port. Furthermore, the issuing of commands via the alternative port includes commands associated with the requests previously queued for retry. Support for these amendments can be found in Figure 3, and in the specification at page 5, lines 1-22. No new matter has been added by these amendments.

A careful review of the entire text and teachings of Tan et al. fails to disclose or remotely suggest these aspects of amended claim 6. Reconsideration and withdrawal of the rejection, and early allowance on the merits is respectfully requested.

Claims 7-8 and 11 depend from claim 6 and are believed to be patentable for at least the reasons cited with respect to independent claim 6.

### **35 U.S.C. §103(a) Rejection of Claims 1-3**

Claims 1-3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 20030126315 to Tan et al., in view of the of the definition of "real time" provided in the Microsoft Computer Dictionary.

As with the Applicant's representative's comments regarding claim 6, It is respectfully submitted that it is the Examiner's burden to show Tan et al explicitly or inherently discloses: "means for queuing of requests designated for an original port to an alternative port" and/or the "means for canceling of all outstanding requests on the original port." Applicant's representative has read the cited passages of Tan et al. and is at a complete loss for where or how Tan et al. discloses the queuing and/or canceling features of applicant's claim. The "canceling" referred to by the Examiner (i.e., through the inactivation of a controller) seems to overlook the idea that the

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canceled of the present principles is performed after the queuing of these requests, and in Tan et al, such "canceling" clearly results in the loss of that information.

Notwithstanding the foregoing, applicant has amended independent claim 1 to clarify the present principles. In particular, the queuing of requests for the original port is for *retry* on the alternative port. Furthermore, the issuing of commands via the alternative port includes commands associated with the requests previously queued for *retry*.

As discussed above with respect to claim 6, a careful review of the entire text and teachings of Tan et al. fails to disclose or remotely suggest these aspects of amended claim 1. Reconsideration and withdrawal of the rejection, and early allowance on the merits is respectfully requested. Claims 2-3 and 5 depend from claim 1 and therefore are believed to be patentable for at least the reasons cited for independent claim 1.

#### Objection to Claim 11

Applicants acknowledge the allowability of claim 11.

#### Conclusion

In view of the foregoing amendments to the claims and the accompany remarks, applicants solicit entry of this amendment and allowance of the claims. If, however, the Examiner believes such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6820, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Kindly charge the cost of the additional independent claim, as well as any other fees that may be due, to Deposit Account 07-0832.

Respectfully submitted,  
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4/30/07